



COLORADO

**Department of
Regulatory Agencies**

**2014 Sunset Review:
Athletic Trainer Practice Act**

*Office of Policy, Research and Regulatory Reform
October 15, 2014*



COLORADO

**Department of
Regulatory Agencies**

Executive Director's Office

October 15, 2014

Members of the Colorado General Assembly
c/o the Office of Legislative Legal Services
State Capitol Building
Denver, Colorado 80203

Dear Members of the General Assembly:

The mission of the Department of Regulatory Agencies (DORA) is consumer protection. As a part of the Executive Director's Office within DORA, the Office of Policy, Research and Regulatory Reform seeks to fulfill its statutorily mandated responsibility to conduct sunset reviews with a focus on protecting the health, safety and welfare of all Coloradans.

DORA has completed the evaluation of the Athletic Trainer Practice Act. I am pleased to submit this written report, which will be the basis for my office's oral testimony before the 2015 legislative committee of reference. The report is submitted pursuant to section 24-34-104(8)(a), of the Colorado Revised Statutes (C.R.S.), which states in part:

The department of regulatory agencies shall conduct an analysis of the performance of each division, board or agency or each function scheduled for termination under this section...

The department of regulatory agencies shall submit a report and supporting materials to the office of legislative legal services no later than October 15 of the year preceding the date established for termination....

The report discusses the question of whether there is a need for the regulation provided under Article 29.7 of Title 12, C.R.S. The report also discusses the effectiveness of the Director of the Division of Professions and Occupations and staff in carrying out the intent of the statutes and makes recommendations for statutory changes in the event this regulatory program is continued by the General Assembly.

Sincerely,

Barbara J. Kelley
Executive Director





COLORADO

Department of Regulatory Agencies

2014 Sunset Review Athletic Trainers Practice Act

SUMMARY

What Is Regulated?

The Athletic Trainers Practice Act (Act) provides regulatory oversight of athletic trainers (ATs). ATs are health care professionals who collaborate with physicians to provide services, including but not limited to: preventive services, emergency care, clinical evaluation and diagnosis, and rehabilitation of injuries and medical conditions.

Why Is It Regulated?

The purpose of the Act is to provide protection to consumers who utilize ATs by ensuring only competent, qualified practitioners provide services to consumers.

Who Is Regulated?

In fiscal year 12-13, there were 614 active registered ATs.

How Is It Regulated?

The Act is enforced by the Director of the Division of Professions and Occupations (Director and Division, respectively) within the Department of Regulatory Agencies. The Director is responsible for, among other things, imposing discipline, rulemaking and policymaking. In order to become registered, ATs must earn a baccalaureate degree from an accredited college or university; complete an accredited athletic training education program; and pass an examination administered by a national certifying agency approved by the Director.

What Does It Cost?

In fiscal year 12-13, the total expenditures for the oversight of registered ATs were \$33,691, and in fiscal year 12-13, there were 0.20 full-time equivalent employees associated with this regulatory oversight.

What Disciplinary Activity Is There?

In fiscal years 09-10 through 12-13, there was one disciplinary action (a cease and desist order) imposed on an AT. The AT was issued the cease and desist order because he/she was practicing as an AT without an active registration.

KEY RECOMMENDATIONS

Sunset the Act and reenact the exemption to the Colorado Medical Practice Act for athletic trainers.

Since the Act was implemented in 2009, there have been very few complaints, and even fewer disciplinary actions imposed on ATs. In fact, the Director imposed discipline once since regulatory oversight began. The lone disciplinary action was a cease and desist order, which was issued because an AT was practicing on an expired registration.

As such, the General Assembly should sunset the Act and implement an exemption to the Medical Practice Act similar to the one in existence prior to the passage of the Act, which would allow ATs to practice as long as they are certified by a national certifying entity. Doing so would be consistent with the second sunset criterion, which mandates that regulation be the least restrictive form of regulation consistent with the public interest. The exemption should also require AT's to provide services under the direction of a licensed physician.

MAJOR CONTACTS MADE DURING THIS REVIEW

Colorado Athletic Trainers Association
Division of Professions and Occupations Staff
Rocky Mountain Athletic Trainers Association

What is a Sunset Review?

A sunset review is a periodic assessment of state boards, programs, and functions to determine whether they should be continued by the legislature. Sunset reviews focus on creating the least restrictive form of regulation consistent with protecting the public. In formulating recommendations, sunset reviews consider the public's right to consistent, high quality professional or occupational services and the ability of businesses to exist and thrive in a competitive market, free from unnecessary regulation.

Sunset Reviews are prepared by:
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Background

Introduction

Enacted in 1976, Colorado's sunset law was the first of its kind in the United States. A sunset provision repeals all or part of a law after a specific date, unless the legislature affirmatively acts to extend it. During the sunset review process, the Department of Regulatory Agencies (DORA) conducts a thorough evaluation of such programs based upon specific statutory criteria¹ and solicits diverse input from a broad spectrum of stakeholders including consumers, government agencies, public advocacy groups, and professional associations.

Sunset reviews are based on the following statutory criteria:

- Whether regulation by the agency is necessary to protect the public health, safety and welfare; whether the conditions which led to the initial regulation have changed; and whether other conditions have arisen which would warrant more, less or the same degree of regulation;
- If regulation is necessary, whether the existing statutes and regulations establish the least restrictive form of regulation consistent with the public interest, considering other available regulatory mechanisms and whether agency rules enhance the public interest and are within the scope of legislative intent;
- Whether the agency operates in the public interest and whether its operation is impeded or enhanced by existing statutes, rules, procedures and practices and any other circumstances, including budgetary, resource and personnel matters;
- Whether an analysis of agency operations indicates that the agency performs its statutory duties efficiently and effectively;
- Whether the composition of the agency's board or commission adequately represents the public interest and whether the agency encourages public participation in its decisions rather than participation only by the people it regulates;
- The economic impact of regulation and, if national economic information is not available, whether the agency stimulates or restricts competition;
- Whether complaint, investigation and disciplinary procedures adequately protect the public and whether final dispositions of complaints are in the public interest or self-serving to the profession;
- Whether the scope of practice of the regulated occupation contributes to the optimum utilization of personnel and whether entry requirements encourage affirmative action;

¹ Criteria may be found at § 24-34-104, C.R.S.

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- Whether the agency through its licensing or certification process imposes any disqualifications on applicants based on past criminal history and, if so, whether the disqualifications serve public safety or commercial or consumer protection interests. To assist in considering this factor, the analysis prepared pursuant to subparagraph (i) of paragraph (a) of subsection (8) of this section shall include data on the number of licenses or certifications that were denied, revoked, or suspended based on a disqualification and the basis for the disqualification; and
 - Whether administrative and statutory changes are necessary to improve agency operations to enhance the public interest.

Types of Regulation

Consistent, flexible, and fair regulatory oversight assures consumers, professionals and businesses an equitable playing field. All Coloradans share a long-term, common interest in a fair marketplace where consumers are protected. Regulation, if done appropriately, should protect consumers. If consumers are not better protected and competition is hindered, then regulation may not be the answer.

As regulatory programs relate to individual professionals, such programs typically entail the establishment of minimum standards for initial entry and continued participation in a given profession or occupation. This serves to protect the public from incompetent practitioners. Similarly, such programs provide a vehicle for limiting or removing from practice those practitioners deemed to have harmed the public.

From a practitioner perspective, regulation can lead to increased prestige and higher income. Accordingly, regulatory programs are often championed by those who will be the subject of regulation.

On the other hand, by erecting barriers to entry into a given profession or occupation, even when justified, regulation can serve to restrict the supply of practitioners. This not only limits consumer choice, but can also lead to an increase in the cost of services.

There are also several levels of regulation.

Licensure

Licensure is the most restrictive form of regulation, yet it provides the greatest level of public protection. Licensing programs typically involve the completion of a prescribed educational program (usually college level or higher) and the passage of an examination that is designed to measure a minimal level of competency. These types of programs usually entail title protection - only those individuals who are properly licensed may use a particular title(s) - and practice exclusivity - only those individuals who are properly licensed may engage in the particular practice. While these requirements can be viewed as barriers to entry, they also afford the highest level of consumer protection in that they ensure that only those who are deemed competent may practice and the public is alerted to those who may practice by the title(s) used.

Certification

Certification programs offer a level of consumer protection similar to licensing programs, but the barriers to entry are generally lower. The required educational program may be more vocational in nature, but the required examination should still measure a minimal level of competency. Additionally, certification programs typically involve a non-governmental entity that establishes the training requirements and owns and administers the examination. State certification is made conditional upon the individual practitioner obtaining and maintaining the relevant private credential. These types of programs also usually entail title protection and practice exclusivity.

While the aforementioned requirements can still be viewed as barriers to entry, they afford a level of consumer protection that is lower than a licensing program. They ensure that only those who are deemed competent may practice and the public is alerted to those who may practice by the title(s) used.

Registration

Registration programs can serve to protect the public with minimal barriers to entry. A typical registration program involves an individual satisfying certain prescribed requirements - typically non-practice related items, such as insurance or the use of a disclosure form - and the state, in turn, placing that individual on the pertinent registry. These types of programs can entail title protection and practice exclusivity. Since the barriers to entry in registration programs are relatively low, registration programs are generally best suited to those professions and occupations where the risk of public harm is relatively low, but nevertheless present. In short, registration programs serve to notify the state of which individuals are engaging in the relevant practice and to notify the public of those who may practice by the title(s) used.

Title Protection

Finally, title protection programs represent one of the lowest levels of regulation. Only those who satisfy certain prescribed requirements may use the relevant prescribed title(s). Practitioners need not register or otherwise notify the state that they are engaging in the relevant practice, and practice exclusivity does not attach. In other words, anyone may engage in the particular practice, but only those who satisfy the prescribed requirements may use the enumerated title(s). This serves to indirectly ensure a minimal level of competency - depending upon the prescribed preconditions for use of the protected title(s) - and the public is alerted to the qualifications of those who may use the particular title(s).

Licensing, certification and registration programs also typically involve some kind of mechanism for removing individuals from practice when such individuals engage in enumerated proscribed activities. This is generally not the case with title protection programs.

Regulation of Businesses

Regulatory programs involving businesses are typically in place to enhance public safety, as with a salon or pharmacy. These programs also help to ensure financial solvency and reliability of continued service for consumers, such as with a public utility, a bank or an insurance company.

Activities can involve auditing of certain capital, bookkeeping and other recordkeeping requirements, such as filing quarterly financial statements with the regulator. Other programs may require onsite examinations of financial records, safety features or service records.

Although these programs are intended to enhance public protection and reliability of service for consumers, costs of compliance are a factor. These administrative costs, if too burdensome, may be passed on to consumers.

Sunset Process

Regulatory programs scheduled for sunset review receive a comprehensive analysis. The review includes a thorough dialogue with agency officials, representatives of the regulated profession and other stakeholders. Anyone can submit input on any upcoming sunrise or sunset review via DORA's website at: www.dora.colorado.gov/opr.

The regulatory functions of the Director of the Division of Professions and Occupations (Director and Division, respectively), which is housed within DORA, with respect to regulation of athletic trainers pursuant to the Athletic Trainer Practice Act, shall terminate on July 1, 2015, unless continued by the General Assembly. During the year prior to this date, it is the duty of DORA to conduct an analysis and evaluation of the administration of this program by the Director pursuant to section 24-34-104, C.R.S.

The purpose of this review is to determine whether the currently prescribed regulation of athletic trainers (ATs) should be continued for the protection of the public and to evaluate the performance of the Director and staff. During this review, the Director must demonstrate that the regulation serves to protect the public health, safety or welfare, and that the regulation is the least restrictive regulation consistent with protecting the public. DORA's findings and recommendations are submitted via this report to the Office of Legislative Legal Services.

Methodology

As part of this review, DORA staff interviewed Division staff, reviewed complaint and disciplinary actions, interviewed officials with state and national professional associations, interviewed ATs, reviewed Colorado statutes and Director's rules, and reviewed the laws of other states.

Profile of the Profession

Athletic trainers provide health care to athletes who are physically active, which include everyone from professional athletes to industrial workers.² The Athletic Trainer Practice Act (Act) defines an athlete as,

a person who, in association with an educational institution, an organized community sports program or event, or a professional, amateur or recreational organization or sports club, participates in games, sports, recreation or exercise requiring physical strength, flexibility, range of motion, speed, stamina or agility.³

More specifically, ATs are health care professionals who collaborate with physicians to provide services, including but not limited to: preventive services, emergency care, clinical evaluation and diagnosis, and rehabilitation of injuries and medical conditions.⁴ In fact, the Act requires ATs to practice athletic training under the direction of a Colorado-licensed physician, dentist or health care professional.⁵

Preventative services include educating athletes about what they should do to avoid putting themselves at risk for injuries.⁶ Preventative services also include advising athletes about the proper use of equipment as well as applying devices such as tape, bandages and braces.⁷

Some of the duties performed by ATs include emergency care to athletes when they are injured in a game or sporting competition. For example, if a college football player is injured during a game or practice, typically, the “first responder” is the AT, who administers emergency care to the athlete.

² Occupational Outlook Quarterly Spring 2005. *Athletic Trainers. Providing Healthcare for Athletes of All Kinds*. Retrieved June 27, 2014, from http://www.nata.org/sites/default/files/AT_providehealthcare.pdf

³ § 12-29.7-103(2), C.R.S.

⁴ National Athletic Trainers' Association. *Athletic Training*. Retrieved June 5, 2014, from <http://www.nata.org/athletic-training>

⁵ § 12-29.7-103(4)(a), C.R.S.

⁶ Occupational Outlook Quarterly Spring 2005. *Athletic Trainers. Providing Healthcare for Athletes of All Kinds*. Retrieved June 27, 2014, from http://www.nata.org/sites/default/files/AT_providehealthcare.pdf

⁷ Occupational Outlook Quarterly Spring 2005. *Athletic Trainers. Providing Healthcare for Athletes of All Kinds*. Retrieved June 27, 2014, from http://www.nata.org/sites/default/files/AT_providehealthcare.pdf

When providing clinical evaluations and diagnoses on athletes, ATs use a range of skills, including, but not limited to, the following:⁸

- Obtaining a thorough medical history, including an assessment of underlying systemic disease and consideration of its potential contributions to the current disorder;
- Conducting a physical examination, including (as relevant) observation of the patient/client performing functional tasks, such as walking, reaching, running or throwing; and
- Arriving at a differential diagnosis (including conditions that cannot be ruled out based on the examination), determining functional deficits and understanding the impact of the condition of the client's life.

When performing rehabilitation services, ATs utilize skills, such as the following:⁹

- Manual therapy (e.g., massage, joint mobilization and muscle energy techniques [a form of stretching]);
- Techniques to restore joint range of motion and muscle extensibility;
- Exercises to improve strength, endurance, speed and power;
- Agility training;
- Exercises to improve cardiorespiratory fitness; and
- Sports specific and/or functional exercises.

Most commonly, ATs provide prevention, evaluation, treatment and rehabilitation care of musculoskeletal injuries.¹⁰ Musculoskeletal injuries involve muscles, bones, ligaments and tendons.¹¹ Some examples of injuries, include, but are not limited to:¹²

- Ankle sprains;
- Rotator cuff tears; and
- Anterior cruciate ligament (ACL) tears.

⁸ National Athletic Trainers' Association. *Athletic Training Services. An Overview of Skills and Services Performed by Certified Athletic Trainers*. Retrieved June 6, 2014, from <http://www.nata.org/sites/default/files/GuideToAthleticTrainingServices.pdf>

⁹ National Athletic Trainers' Association. *Athletic Training Services. An Overview of Skills and Services Performed by Certified Athletic Trainers*. Retrieved June 6, 2014, from <http://www.nata.org/sites/default/files/GuideToAthleticTrainingServices.pdf>

¹⁰ Southeastern Health. *What is a Certified Athletic Trainer?* Retrieved June 27, 2014, from <http://www.srmc.org/main/aboutfastfact/aboutnewsarticles/771-what-is-a-certified-athletic-trainer.html>

¹¹ Southeastern Health. *What is a Certified Athletic Trainer?* Retrieved June 27, 2014, from <http://www.srmc.org/main/aboutfastfact/aboutnewsarticles/771-what-is-a-certified-athletic-trainer.html>

¹² Southeastern Health. *What is a Certified Athletic Trainer?* Retrieved June 27, 2014, from <http://www.srmc.org/main/aboutfastfact/aboutnewsarticles/771-what-is-a-certified-athletic-trainer.html>

Athletic trainers work in a variety of settings, including, but not limited to:¹³

- High schools;
- Colleges;
- Universities;
- Professional sports teams;
- Hospitals;
- Rehabilitation clinics; and
- Physicians' offices.

In order to be eligible for an AT registration in Colorado, a candidate is required to pass an examination. The Board of Certification (BOC) for the athletic trainer administers the examination. The BOC has been responsible for certification of ATs since 1969.¹⁴ Upon inception, the BOC was an entity of the National Athletic Trainers' Association.¹⁵ However, in 1989, the BOC became an independent non-profit corporation.¹⁶

¹³ National Athletic Trainers' Association. *Athletic Training Services. An Overview of Skills and Services Performed by Certified Athletic Trainers*. Retrieved June 6, 2014, from <http://www.nata.org/sites/default/files/GuideToAthleticTrainingServices.pdf>

¹⁴ Board of Certification. *BOC Exam Candidate Handbook*. Retrieved June 15, 2014, from http://bocatc.org/images/stories/candidates/boc_candidate_handbook_1403ef.pdf

¹⁵ Board of Certification. *BOC Exam Candidate Handbook*. Retrieved June 15, 2014, from http://bocatc.org/images/stories/candidates/boc_candidate_handbook_1403ef.pdf

¹⁶ Board of Certification. *BOC Exam Candidate Handbook*. Retrieved June 15, 2014, from http://bocatc.org/images/stories/candidates/boc_candidate_handbook_1403ef.pdf

Legal Framework

History of Regulation

Athletic trainers (ATs) have been regulated, albeit indirectly, in Colorado since 1991. In 1991, the General Assembly enacted House Bill 91-1127 (HB 1127), which authorized ATs to practice in Colorado under an exemption to the Colorado Medical Practice Act (MPA). Essentially, ATs who practiced in Colorado were not required to be licensed physicians in order to work as ATs as long as they met certain requirements highlighted in HB 1127. One requirement in HB 1127 established the minimum education to be exempt from the MPA, which was a baccalaureate degree from an accredited college or university in athletic training. House Bill 1127 also required the State Board of Medical Examiners (now called the Colorado Medical Board) to promulgate rules specifying the types of services ATs were allowed to provide to consumers.

In 2009, the General Assembly created a registration program for ATs, which is housed in the Division of Professions and Occupations within the Department of Regulatory Agencies. In order to become registered, a candidate must possess a minimum of a baccalaureate degree from an accredited college or university, have successfully completed an accredited athletic training program and pass a competency examination administered by a national certifying agency.¹⁷

Colorado Law

Athletic Trainer Practice Act

The Athletic Trainer Practice Act (Act) is created in section 12-29.7-101, *et seq.*, Colorado Revised Statutes. The purpose of the Act is to provide regulatory oversight of athletic trainers (ATs).

ATs are health care professionals who collaborate with physicians to provide preventive services, emergency care, clinical diagnosis, therapeutic intervention and rehabilitation of injuries and medical conditions.¹⁸ ATs provide services to both athletes and non-athletes.

¹⁷ §§ 12-29.7-107(1)(a), (b) and (c), C.R.S.

¹⁸ National Athletic Trainers' Association. *Athletic Training*. Retrieved June 5, 2014, from <http://www.nata.org/athletic-training>

Registration Requirements

In order to become a registered AT in Colorado, an individual is required to:¹⁹

- Earn a baccalaureate degree from an accredited college or university;
- Complete an accredited athletic training education program;
- Pass an examination administered by a national certifying agency approved by the Director of the Division of Professions and Occupations (Director and Division, respectively);
- Complete an application for registration; and
- Pay the applicable registration fee.

Registration by Endorsement

An AT who has an active license in another state is eligible to obtain a registration to practice in Colorado if he/she has:²⁰

- Actively practiced athletic training for a minimum of 400 hours per year for two years immediately preceding the receipt of the application for registration or otherwise maintained competency as an athletic trainer;
 - “Otherwise maintained competency as an athletic trainer” is fulfilled by completing 48 hours of athletic training continuing education courses during the two years immediately preceding the receipt of the application for registration; and
- Been certified as an athletic trainer by the Board of Certification (the only athletic trainer certification entity in the United States) within three years of receipt by the Division of an application for registration.

Title Protection

The Act authorizes only a person who is registered as an athletic trainer to use the titles, “athletic trainer” or “registered athletic trainer.”²¹ Only registered ATs are authorized to use the letters “A.T.,” or any other generally accepted terms, letters or figures that indicate that the person is an athletic trainer.²²

Disciplinary Authority

The Act creates a “director model” program to provide regulatory oversight of ATs. Essentially, the Director is responsible for, among other things, imposing discipline on ATs.

¹⁹ §§ 12-29.7-107(1)(a),(b),(c),(d) and (e), C.R.S.

²⁰ Department of Regulatory Agencies. Office of Athletic Trainer Registration Rules. Rules 3 A and B.

²¹ § 12-29.7-104, C.R.S.

²² § 12-29.7-104, C.R.S.

The Director is authorized to revoke, deny, suspend or refuse to renew an AT's registration if the AT engages in certain prohibited conduct including but not limited to the following:²³

- Has engaged in a sexual act with a person receiving services while a therapeutic relationship existed or within six months immediately following termination of the therapeutic relationship;
- Has falsified information in an application for registration or attempted to obtain a registration by fraud, deception or misrepresentation;
- Is an excessive or habitual user or abuser of alcohol or habit-forming drugs or is a habitual user of a controlled substance; or
- Has practiced athletic training without a registration.

Additionally, the Director is authorized to issue a cease and desist order to an AT who is acting in a manner that poses an imminent threat to the health and safety of the public or to any person who is practicing as an AT without the required registration.²⁴

The Director may also order a registered AT to undergo a mental or physical examination, which is administered by a physician or other licensed health care professional, if the Director has reasonable cause to believe that an AT is unable to practice with reasonable skill and safety.²⁵

²³ §§ 12-29.7-109(2)(a),(b),(c) and (g), C.R.S.

²⁴ § 12-29.7-109(11)(a), C.R.S.

²⁵ § 12-29-110(1), C.R.S.

Program Description and Administration

The Athletic Trainer Practice Act (Act) is created in section 12-29.7-101, *et seq.*, Colorado Revised Statutes (C.R.S.). The purpose of the Act is to provide regulatory oversight of registered athletic trainers (ATs).

The regulation of ATs is vested in the Director of the Division of Professions and Occupations (Director and Division, respectively) within the Department of Regulatory Agencies.

The Director is responsible for, among other things, imposing discipline, rulemaking and policymaking.

In fiscal year 13-14, the Director devoted 0.20 full-time equivalent (FTE) employees to provide regulatory oversight of ATs. The FTE are as follows:

- Program Director (General Professional VI) - 0.05 FTE;
- Program Assistant (Administrative Manager II) - 0.10 FTE;
- Administrative Assistant (Administrative Assistant III) - 0.05 FTE.

The Program Director (PD) is responsible for, among other things, directing and monitoring the processing of complaints as well as budget management. The PD also engages in internal Division activities, responds to external AT-related inquiries by consumers, professional associations and other stakeholders. The PD provides internal case reports and other information supporting the Director when reviewing and rendering a decision in regard to case determinations of filed complaints.

The Program Assistant (PA) also responds to external AT-related inquiries by consumers, professional associations and other stakeholders. In addition, the PA processes investigation referrals to the Division's Office of Investigations. Further, the PA is primarily responsible for case processing and otherwise administratively supports the PD.

The Administrative Assistant processes closures of cases, transmittals to the Office of the Attorney General (if applicable), monitors and processes administrative hearing actions and otherwise supports the PD.

The aforementioned FTE do not include the provision of centralized services in the Division, such as investigations, examination services and licensing.

Typically, sunset reviews provide data concerning expenditures, number of regulated practitioners, complaints and disciplinary actions imposed during the past five fiscal years. However, ATs have only been regulated in Colorado for four fiscal years. As a result, the majority of the charts in this sunset review only contains data for four fiscal years.

Table 1 highlights the total expenditures for the regulation of ATs in fiscal years 09-10 through 12-13.

Table 1
Total Program Expenditures in Fiscal Years 09-10 through 12-13

Fiscal Year	Total Expenditures
09-10	\$78,942
10-11	\$36,585
11-12	\$35,750
12-13	\$33,691

As Table 1 illustrates, fiscal year 09-10, which was the initial year of regulation, had the highest expenditures. The expenditures included additional FTE, which were necessary to implement the regulatory oversight of ATs.

Registration

The Act requires ATs to obtain a registration from the Director prior to providing AT services to consumers. In order to be eligible for a registration, a candidate is required to possess a baccalaureate degree from an accredited college or university, successfully complete an accredited athletic training education program, pass an examination and complete an application from the Division.

Table 2 highlights the total number of registered ATs in fiscal years 09-10 through 12-13.

Table 2
Total Number of Registered ATs in Fiscal Years 09-10 through 12-13

Fiscal Year	Total Number of Registered ATs
09-10	404
10-11	446
11-12	504
12-13	614

As Table 2 highlights, the number of registered ATs in Colorado has increased in each of the fiscal years since regulation was implemented. Generally, the increase in registered ATs is attributable to the increased growth of the profession.

In fiscal year 12-13, the fee to obtain an initial AT registration from the Division was \$50. Once registered, an AT is required to renew his/her registration every two years, and in fiscal year 12-13, the renewal fee was \$90.

An AT who is licensed or registered in another state may apply to be registered in Colorado by endorsement. In order to be eligible for a registration by endorsement, an applicant must possess an active license or registration from a jurisdiction that requires qualifications similar to Colorado's requirements.²⁶

In fiscal year 12-13, the registration fee to obtain a registration by endorsement was \$50.

Table 3 delineates the total number of original, endorsement and active AT registrations in fiscal years 09-10 through 12-13.

Table 3
Total Number of Original, Endorsement and Active AT Registrations in Fiscal Years 09-10 through 12-13

Fiscal Year	Original	Endorsement	Active Registrations
09-10	369	35	404
10-11	66	21	446
11-12	64	42	504
12-13	60	43	614

As highlighted in Table 3, the largest number of original AT registrations was in fiscal year 09-10, which was the initial year of implementation of the AT registration program.

Practitioners who have allowed their AT registration to expire are required to submit a reinstatement application to the Division. In fiscal year 12-13, the fee to reinstate an AT registration was \$43.

Examinations

In order to be eligible for an AT registration in Colorado, a candidate is required to pass an examination. The Board of Certification (BOC) for the athletic trainer administers the examination. The BOC was incorporated in 1989 to provide a certification program for entry-level ATs, and is the only accredited certification program for ATs in the United States.²⁷ The purpose of the examination is to assess a candidate's knowledge (competence) to practice athletic training.

²⁶ 12-29.7-107(3)(a), C.R.S.

²⁷ Board of Certification for the Athletic Trainer. *What is the BOC?* Retrieved July 22, 2014, from <http://www.bocatc.org/about-us>

Table 4 highlights the total number of BOC examinations and pass rates in fiscal years 09-10 through 13-14.

Table 4
Total Number of BOC Examinations and Pass Rates in Fiscal Years 09-10 through 13-14

Fiscal Year	Number of Candidates Who Passed the Examination	Number of Candidates Who Completed the Examination	Pass Rate
09-10	40	73	55%
10-11	64	90	71%
11-12	55	65	85%
12-13	62	76	82%
13-14	60	66	91%

The minimum requirements to be eligible to take the BOC examination is completion of a Bachelor's or Master's degree from an athletic training program accredited by the Commission on Accreditation of Athletic Training Education (CAATE).²⁸

Currently, there are five Colorado colleges or universities that have an accredited CAATE program: Colorado Mesa University, Colorado State University - Pueblo, Ft. Lewis College, Metropolitan State University of Denver and the University of Northern Colorado.

Also, candidates who are enrolled and/or registered in their final semester/quarter prior to graduation are eligible to sit for the BOC examination.²⁹

The BOC examination is administered at Castle Testing Centers throughout Colorado, including: Centennial, Colorado Springs, Denver, Durango, Ft. Collins, Ft. Morgan, Greeley, Greenwood Village, Lakewood, Littleton, Longmont and Pueblo.³⁰

The current fee to take the BOC examination is \$300.

The BOC examination contains a combination of 175 scored and unscored (experimental) questions,³¹ and a candidate must complete the examination in four hours.³²

²⁸ Board of Certification. *BOC Exam Candidate Handbook*. Retrieved June 15, 2014, from http://bocatc.org/images/stories/candidates/boc_candidate_handbook_1403ef.pdf

²⁹ Board of Certification. *BOC Exam Candidate Handbook*. Retrieved June 15, 2014, from http://bocatc.org/images/stories/candidates/boc_candidate_handbook_1403ef.pdf

³⁰ Board of Certification for the Athletic Trainer. *Exam Deadlines*. Retrieved July 10, 2014, from <http://www.castleworldwide.com/cww/our-solutions/test-delivery/test-site-cities/>

³¹ Board of Certification. *BOC Exam Candidate Handbook*. Retrieved June 15, 2014, from http://bocatc.org/images/stories/candidates/boc_candidate_handbook_1403ef.pdf

³² Board of Certification. *BOC Exam Candidate Handbook*. Retrieved June 15, 2014, from http://bocatc.org/images/stories/candidates/boc_candidate_handbook_1403ef.pdf

The BOC examination contains four domains (content areas). The domains, including the percentage of questions on the examination, are as follows.³³

- Injury/Illness Prevention and Wellness Protection (25 percent);
- Clinical Evaluation and Diagnosis (22 percent);
- Immediate and Emergency Care (19 percent);
- Treatment and Rehabilitation (22 percent); and
- Organizational and Professional Health and Well-Being (12 percent).

Complaints/Disciplinary Actions

Since the registration program for ATs was implemented in 2009, there have been very few complaints to the Director. Table 5 highlights the total number of complaints to the Director, as well as the nature of the complaints, in fiscal years 09-10 through 12-13.

Table 5
Total Number of Complaints to the Director in Fiscal Years 09-10 through 12-13

Nature of Complaint	FY 09-10	FY 10-11	FY 11-12	FY 12-13
Non-Jurisdictional	0	1	0	0
Unregistered Practice	0	2	3	2
Expired Practice	0	2	0	0
Total	0	5	3	2

As highlighted in Table 5, the most complaints filed against ATs were in fiscal year 10-11. Importantly, none of the complaints in the past four fiscal years were practice-related issues. That is, all of the complaints were more administrative in nature (e.g., failing to renew an AT registration).

Additionally, Table 6 illustrates the total number of disciplinary actions imposed on registered ATs in fiscal years 09-10 through 12-13.

Table 6
Total Number of Final Agency Actions in Fiscal Years 09-10 through 12-13

Type of Action	FY 09-10	FY 10-11	FY 11-12	FY 12-13
Revocations	0	0	0	0
Suspensions	0	0	0	0
Revocations/Suspensions held in abeyance or stayed or stayed suspension	0	0	0	0
Cease and Desist Orders	0	0	1	0
Dismissals	0	3	1	3
Total Final Agency Actions	0	0	1	0

³³ Board of Certification. *BOC Exam Candidate Handbook*. Retrieved June 15, 2014, from http://bocatc.org/images/stories/candidates/boc_candidate_handbook_1403ef.pdf

As Table 6 shows, there was only one disciplinary action imposed on an AT in the past four fiscal years. The disciplinary action, a cease and desist order, was issued because the AT was practicing without a valid registration.

Analysis and Recommendations

Recommendation 1 – Sunset the Athletic Trainer Practice Act and reenact the exemption to the Colorado Medical Practice Act for athletic trainers.

The first sunset review criterion asks whether regulation is necessary to protect the health, safety and welfare of the public. The Athletic Trainer Practice Act (Act) was created by the General Assembly in 2009. The Act creates a “director model” program, which authorizes the Director of the Division of Professions and Occupations (Director and Division, respectively) within the Department of Regulatory Agencies (DORA) to, among other things, impose discipline on practitioners who violate the Act or applicable rules.

Since the Act was implemented in 2009, there have been very few complaints, and even fewer disciplinary actions imposed on registered athletic trainers (ATs). In fact, the Director imposed discipline once since regulatory oversight began. The lone disciplinary action was a cease and desist order, which was issued because an AT was practicing on an expired registration. Importantly, the one case of formal discipline was not a practice-related issue (i.e., harming a consumer); instead, the discipline was an administrative issue, where the practitioner failed to maintain a current registration with the Division.

In 1990, DORA recommended implementing an exemption to the Colorado Medical Practice Act (MPA) for ATs. The exemption was enacted by the General Assembly, via House Bill 91-1127 (HB 1127). The bill, among other things, directed the State Board of Medical Examiners (now the Colorado Medical Board) to promulgate rules and regulations specifying the types of services qualified ATs could provide to the public. Essentially, ATs who practiced in Colorado were not required to be licensed physicians in order to work as ATs as long as they met certain requirements highlighted in HB 1127.

Further, HB 1127 defined a “qualified AT” as someone who had completed a baccalaureate degree in athletic training or related field from an accredited college or university.³⁴

Due to the lack of harm to consumers identified during this sunset review, the central question is whether the State of Colorado should continue to require ATs to become registered prior to practicing.

It could be argued that the implementation of the registration program in Colorado has ensured only competent, qualified practitioners have been providing services to consumers, which at least partially explains the low number of complaints and disciplinary actions.

³⁴ Department of Regulatory Agencies. 1995 Athletic Trainers Sunrise Review. p.9.

However, there were limited instances of harm to consumers during the time when the exemption to the MPA was in place. This suggests there is little if any added benefit to the public under the registration program in comparison to the experience under the exemption provision. So, it is reasonable to conclude that the implementation of the registration program for ATs has not increased public protection but instead created an unnecessary government regulatory program.

Additionally, the second sunset criterion asks whether the existing statutes and regulations establish the least restrictive form of regulation consistent with the public interest. Given the fact that there have been a low number of consumer complaints and disciplinary actions, it could be argued that that registration program is not the least restrictive form of regulation. The least restrictive form of regulation would be to implement (reenact) the exemption to the MPA. The exemption should require ATs to pass an examination offered by a national certifying entity and require the continuous certification by the entity. Failure to comply with these conditions would disqualify an AT from practicing under the exemption.

Requiring ATs to become certified by passing an examination would serve several purposes. First, in order to be eligible to sit for an examination, or at least the Board of Certification examination, which is the only examination currently in existence, a candidate is required to complete the minimum education requirement, which helps to ensure competent practitioners. Also, passing an examination ensures that a candidate not only has fulfilled the education requirement, but is able to understand the information learned by utilizing the information attained to pass the examination. Requiring ATs to maintain their certification would provide the public assurance that the practitioner continues to review and implement new information and techniques (i.e., concussion training). As such, the exemption would provide adequate consumer protection in the least restrictive manner.

Also, during this sunset review, some stakeholders expressed concerns that the absence of a registration program could enable ATs to practice independently, outside of the “traditional” settings (e.g., schools, colleges, universities and hospitals), thus enabling ATs to provide services directly to consumers. Doing so could increase the potential of harm to consumers. However, doing so would be difficult and impractical since ATs provide services under the direction of a licensed physician, which is required by the BOC for the AT standards of professional practice. As a result, implementation of the exemption to the MPA would provide adequate protection to consumers.

In sum, the overall goal of government regulation is to provide protection to consumers. This sunset review, as well as the previous sunrise reviews conducted by DORA staff, specifically 1995 and 2005, failed to identify situations where the public was being harmed by ATs. In fact, as stated earlier, there seems to be little added benefit to the public’s health and safety under the registration program.

As such, the General Assembly should sunset the Act and implement an exemption to the MPA similar to the one in existence prior to the passage of the Act, which would allow ATs to practice as long as they are certified by a national certifying entity. Doing so would be consistent with the second sunset criterion, which mandates that regulation be the least restrictive form of regulation consistent with the public interest. The exemption should also require AT's to provide services under the direction of a licensed physician.

The exemption should require ATs to achieve a minimum level of competency through education (baccalaureate degree in athletic training) and the passage of a national examination. The Colorado Medical Board should also promulgate rules to reestablish the types of services ATs can provide to the public and clarify that all ATs who are practicing under the exemption are required to work under the direction of a licensed physician, dentist or other health care professional (as defined in rule). Finally, failure to comply with the aforementioned requirements of the exemption would fall under the jurisdiction of the Colorado Medical Board.